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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,182	06/23/2003	Tony S. Zaboli		9968

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EXAMINER

PEARSE, ADEPEJU OMOLOLA

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/602,182	ZABOLI, TONY S.	
	Examiner	Art Unit	
	Adepeju Pearse	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Claim Objections

1. Claim 4 is objected to because of the following informalities: The "(1)" between one and or should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onove (U.S. Patent Number 6,096,366) in view of Berger (U.S. Patent Number 4,022,923), Isao (U.S. Patent Number 5,260,090), Sakamoto et al (U.S. Patent Number 3,615,599) and Zaboli (U.S. Patent Number 6,197,354 B1). With regard to claim 1, Onove discloses a process of making marinated frozen garlic consisting of marinating fresh garlic in vinegar for four hours and placing garlic in

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freezer. (Col 2, lines 1-10). However, Onove did not disclose removing the characteristic odor of fresh garlic after being ingested. Zaboli teaches a method of processing fresh garlic to remove its characteristic odor after being ingested by adding a liquid to fresh garlic for a specific period of time before processing (Col 2 lines 4-7). It would have been obvious to one of ordinary skill in the art to modify Onove with Zaboli because it is expected that the characteristic odor of garlic will be removed because Onove's process is within the description of the applicant's claim.

5. With regard to claim 2, Onove failed to show thawing the frozen garlic. However, Berger teaches dissolving frozen garlic to retain the fresh flavor (Col 1, lines 44-46). It would have been obvious to one of ordinary skill in the art to modify Onove with Berger because to dissolve/to thaw are taken in the same context of disintegrating into components.

6. With regard to claim 3, Onove failed to show a water-based solution for marination. However, Zaboli teaches water-soluble solutions such as pure boiled water, boiled water and vinegar, boiled water and lemon juice, and lemon juice in natural concentration to help in processing fresh garlic (Abstract lines 10-13). It would have been obvious to one of ordinary skill in the art to modify Onove with Zaboli because the same solutions will perform the same functions and offer a wider variety of solutions to use.

7. With regard to claim 4, Onove failed to show adding edible salts to the marination process. However, Zaboli teaches adding edible salts to the process to adjust taste or as a preservative (Abstract lines 16-17). It would have been obvious to one of ordinary skill in the art to modify Onove with Zaboli because the salt will help to season the frozen garlic and act as a preserving agent.

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8. With regard to claims 5-6, Onove discloses freezing fresh garlic. However, Onove did not show a temperature range. It is expected that a freezing temperature will fall between the applicant's claims.

9. With regard to claim 7, Onove failed to disclose a temperature range for the marination process. However, Isao teaches a preferable temperature range from 35°C to 20°C for the processing liquid to immerse the garlic bulbs (Col 3 line 55). It would have been obvious to one of ordinary skill in the art to modify Onove with Isao because applicant is claiming an approximate temperature of 0°C, which is relative. The temperature could be higher or lower than 0°C. It is therefore, expected that the temperature is selected so as to provide efficient permeation of the processing liquid.

10. With regard to claim 8, Onove failed to disclose performing the marination step in a vacuum. However, Sakamoto et al teaches a method of solution processing of garlic in a vacuum (Col 1 lines 30-35). It would have been obvious to one of ordinary skill in the art to modify Onove with sakamoto because it will facilitate the permeation of the liquid into the garlic for a shorter period of time.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adepeju Pearse whose telephone number is 571-272-8560. The examiner can normally be reached on Monday through Friday, 8.00am - 4.30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peju Pearse
Art Unit 1761



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